

REMARKSSpecification

Applicant has amended Page 1, Paragraph 1 of the specification in order to update the status of the continuity data as requested by Examiner.

Applicant has also amended Page 12, Paragraph 44 of the specification in order to correct a typographical error and remove any potential inconsistencies.

Claim Rejections – 35 U.S.C. §112

Claims 1-7, 23-31, 47-56, 72-79, and 95-101 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. Examiner asserts that the specification as originally filed fails to provide support for the limitation of the first side being flat.

Information contained in any one of the specification, claims or drawings of the application as filed may be added to any other part of the application without introducing new matter. MPEP 2163.06.

Support for the limitation of the first side being flat is found in FIGS. 1, 3, 4A, and 4B of the application as originally filed, which clearly show a first side (top surface) that is flat. Additional support is found in Paragraph 44, Page 12 of the specification as originally filed, where it states, “If skin layer 104 is formed from expanded vinyl, the vinyl surface may be smooth or textured.” *Merriam Webster’s Collegiate Dictionary, 10th Edition* provides the following definitions:

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|--------------------------|---|
| smooth <i>adj</i> | 1 a (1) : having a continuous or even surface |
| flat <i>adj</i> | 3 : having a relatively smooth or even surface |
| | 4: arranged or laid out so as to be level or even |

Applicant respectfully submits that the limitation of the first side being flat is supported by FIGS. 1, 3, 4A, and 4B showing a relatively smooth and even surface. This limitation is additionally supported by the specification specifically stating that the surface may be smooth.

In response to Examiner's comments in the Advisory Action dated May 26, 2005, Applicant respectfully submits that the scope of the pending claims is *not* limited to an embodiment having an expanded vinyl skin layer, as suggested by Examiner. As described in the specification (Page 12, Paragraph 44), expanded vinyl is one of many materials that may be used to form the skin layer. Since a variety of materials may be used and FIGS. 1, 3, 4A, and 4B all show skin layer having a flat surface, it is clear that the flat surface applies to a variety of materials, not just expanded vinyl.

Additionally, Page 12, Paragraph 44 of the specification has been amended to correct a typographical error, removing any potential inconsistencies. The text "which is" has been removed from the second sentence so that the paragraph now reads "Skin layer 104 can be formed from a variety of materials. Examples of such materials include expanded vinyl; vinyl with a layer of foam that imparts a soft, textured feel" As would be appreciated by one having ordinary skill in the art, expanded vinyl is not necessarily textured. This fact, along with the specification clearly stating in the same paragraph that "the vinyl surface may be smooth or textured," shows that the inclusion of the text "which is" was a typographical error and that expanded vinyl may include both a smooth surface and a textured surface.

Claims 2, 26, 51, and 74 have been canceled and Claim 100 has been amended to eliminate any possible inconsistencies between these claims, reciting a variable distance between the first and second sides, and their respective parent claims, reciting a first side being flat.

Therefore, Applicant respectfully submits that Claims 1-7, 23-31, 47-56, 72-79, and 95-101 comply with the written description requirement under 35 U.S.C. §112, first paragraph, and that they are currently in condition for allowance.

Reconsideration and withdrawal of the rejection is respectfully requested.

Double Patenting

Claims 1, 2, 3, 4, 5, 23, 24, 25, 26, 27, 28, 29, 47, 48, and 49 stand rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, 1, 6, 7, 10, 12, 1, 2, 1, 6, 7, 10, 1 and 12 of U.S. Patent No. 6,854,163.

As pointed out by Examiner, a timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. 37 CFR 1.130(b).


Applicant has included a terminal disclaimer in compliance with 37 CFR 1.321(c) along with this amendment in order to overcome this obviousness-type double patenting rejection.

Therefore, Applicant respectfully submits that Claims 1, 2, 3, 4, 5, 23, 24, 25, 26, 27, 28, 29, 47, 48, and 49 are currently in condition for allowance. Reconsideration and withdrawal of the rejection is respectfully requested.

If the Examiner has any questions regarding this application, the Examiner may telephone the undersigned at 775-586-9500.

Respectfully submitted,
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Dated: June 8, 2005



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